

EX PARTE OR LATE FILED

ORIGINAL

BLUMENFELD & COHEN

SUMNER SQUARE

1615 M STREET, N.W. SUITE 700

WASHINGTON, D. C. 20036

202 955-6300

FACSIMILE 202 955-6460

<http://www.technologylaw.com>

JEFFREY BLUMENFELD
jeff@technologylaw.com

4 EMBARCADERO CENTER
SUITE 1170

SAN FRANCISCO, CA 94111

415 394-7500

FACSIMILE 415 394-7505

July 6, 1998

VIA MESSENGER

RECEIVED

JUL - 6 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Magalie Roman Salas, Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re CC Dockets No. 98-11, 98-26, 98-32, 98-91
Petitions for Section 706 Relief

ORIGINAL

Dear Ms. Salas:

On Thursday, July 2, 1998, Glenn Manishin, Christy Kunin and the undersigned, counsel for Rhythms NetConnections Inc. ("Rhythms"), met with Robert Pepper, Dale Hatfield, Stag Newman and Jon Wilkins of the Commission's Office of Plans & Policy to address the issues raised in the captioned proceedings under Section 706 of the Telecommunications Act of 1996. Rhythms' views are reflected in its prior comments in these dockets, excerpts of which were distributed. The attached letter from SBC Communications, Inc. ("SBC") to MCI Telecommunications Corp. was also distributed.

Specifically, Rhythms urged that as part of its pending Section 706 review, the Commission should take a number of actions to ensure competitive and technological neutrality in interconnection of data service competitors, including:

1. Digital Loop Carrier ("DLC")

The Commission should not grant waivers of Section 251 obligations for incumbent LEC ("ILEC") digital subscriber line ("DSL") deployment unless ILEC competitors are permitted access to customers served by DLC on the same terms ILECs provide such services for their own customers. Specifically, where an ILEC provides DSL by placing DSL equipment in the DLC remote terminal (or "vault"), Section 251(b)-(c) relief should not apply—and thus cost-based unbundling, and resale of ILEC DSL services at wholesale rates, must be permitted—if competitors are not allowed to place their own DSL equipment in such DLC vaults.

No. of Copies rec'd 009
List A B C D E

BLUMENFELD & COHEN

Magalie Roman Salas

July 5, 1998

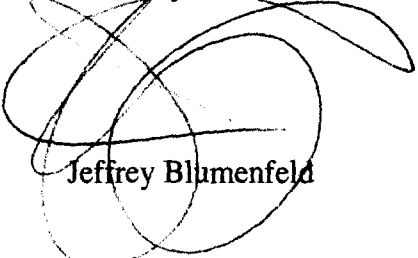
Page 2

2. "Spectrum Management" Issues

The Commission should not permit ILECs to refuse to make DSL-compatible loops available to their competitors on the basis of unilateral "spectrum policies," for example as discussed by SBC in its petition. Instead, the Commission should establish a process by which the industry—including ILECs, competitors and equipment vendors—can jointly agree on competitively and technically neutral standards, analogous to the Commission's Part 68 registration program, for the deployment of DSL technology using any commercially available modulation scheme. This would permit consumers the maximum choice of technologies and services by enabling the marketplace, rather than the ILECs, to determine the appropriate variety and mix of DSL technologies that can be provided over copper loops.

Pursuant to Section 1.1206 of the Commission's Rules, two copies of this letter are enclosed for filing. Please contact me should you have any questions in regard to this matter.

Sincerely,



Jeffrey Blumenfeld

JB:hs

cc: Robert M. Pepper, OPP
John T. Nakahata, Chief of Staff
James L. Casserly
Kyle Dixon
Paul Gallant
Kevin Martin
Paul Misener
Thomas Power
Kathryn C. Brown, Chief, CCB
Carol E. Matthey, Chief, Program & Policy Planning Div.
Linda Kinney, CCB



Marie Dillard
Director-MCI

SBC Telecommunications, Inc.
511 S. Akard Street
Four Bell Plaza, Room 860 02
Dallas, Texas 75202-5596
Phone 214 484-1750
Fax 214 858-0281

May 1, 1998

Ms. Carol Pomponio
Carrier Agreements
MCI Telecommunications Corporation
100 South Fourth Street
St. Louis, Missouri 63102

Dear Carol:

Thank you for your letter of April 24, 1998, concerning HDSL/ADSL Capable Loop Availability.

I must state that SWBT certainly does not refuse to provide DSL loops - HDSL as it is available via the BFR process in accordance with the Interconnection Agreement. SWBT is currently making ISDN and DS1 digital loops available regularly.

MCI's statement that the FCC requires the LEC "to condition the loop as requested by the CLEC if it is technically feasible to so given the physical characteristics of the loop", may have been affected somewhat by the 8th District Rulings. Either way, ADSL technology is currently being studied in our technical trials and in the labs at TRI to determine the technical feasibility of deploying it in relationship to the physical characteristics of the loop which presently exists in SWBT's network.

Once the determination is made that the technology is deployable, MCI and other CLECs will be invited to submit their technology specifications for the purpose of developing a Spectrum Management framework that identifies loops which are "capable" of carrying their specific ADSL signal. This certainly would not constitute "unilateral" approach to loop qualification.

MCI's participation in establishing some standards for ADSL may be occurring at the national level, but these standards are incomplete. If this is taking place at the national level, I can only assume that we are working together on these issues today in that forum.

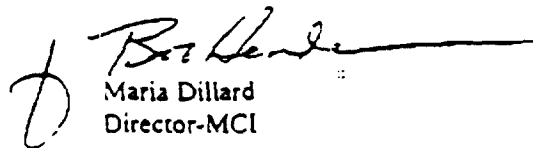
As to MCI having access to the same "facility inventory" as SWBT, this capability does not exist in a usable form. The current process for this trial is strictly manual (pencil and paper) review. One of SWBT's objectives is to develop requirements for mechanization for some of the research to include inventory and loop qualification processes. This proposal will also include discussions of CLEC access and usage.

SWBT's intent is to confirm the viability of the technology, which would possibly afford MCI and other CLECs an opportunity to deploy it. It is estimated that once the trials have been completed and the results have been determined, a path forward will be established within the next sixty to ninety days.

2

As I have indicated in my previous correspondence regarding HDSL/ADSL Capable Loop Availability, questions and future correspondence should continue to be directed to the account team. We look forward to working through these processes with MCI for possible future deployment.

Sincerely,


Maria Dillard
Director-MCI

CC: Darlene F. Johnson (PB)